

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Keith Michael Roca,

Civil No. 20-1228 (DWF/KMM)

Plaintiff,

**ORDER**

v.

Rebecca Church, et al.,

Defendants.

This matter is before the Court on *pro se* Plaintiff Keith Michael Roca's ("Plaintiff") objections (Doc. No. 9) to the Report and Recommendation of United States Magistrate Judge Katherine Menendez, dated June 8, 2020 (Doc. No. 4)<sup>1</sup> insofar as it recommends that (1) this case be dismissed without prejudice; and (2) the application to proceed *in forma pauperis* (Doc. No. 2) be denied as moot.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

In the Report and Recommendation, the Magistrate Judge explained that while Plaintiff qualifies financially to proceed IFP, because the Court lacks subject matter

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<sup>1</sup> Plaintiff also filed a Motion to Reconsider the Report and Recommendation (Doc. No. 7). Magistrate Judge Menendez declined review because Plaintiff did not receive the required permission. The Court considers this document as part of Plaintiff's objections.

jurisdiction, the case should be dismissed without prejudice. In particular, the Magistrate Judge denied Plaintiff's reliance on three identified grounds for jurisdiction: 28 U.S.C. § 1331—federal question jurisdiction; 18 U.S.C. § 242—criminalizing civil rights violations by state actors; 28 U.S.C. § 144—discussing procedures in federal district court if a party alleges that a judge is biased. The Magistrate Judge also considered Plaintiff's general allegation that he is entitled to have his child returned to his custody and to have the state court "CHIPS" case closed. The Magistrate Judge explained that Plaintiff's reliance on the above statutes is misplaced. In particular, Plaintiff fails to identify a federal cause of action that would allow for reliance on 28 U.S.C. § 1331, 18 U.S.C. § 242 is a federal criminal statute with no right for a private citizen to raise or enforce it, and 28 U.S.C. § 144 does not create jurisdiction because it applies to federal district courts and Plaintiff's complaint relates to Minnesota state courts. In addition, the Magistrate Judge concluded that Plaintiff's claims are barred by the *Rooker-Feldman* doctrine because he is asking the Court to invalidate Minnesota state court child custody proceedings.

Plaintiff objects to the Report and Recommendation. However, in the objection, Plaintiff fails to identify a jurisdictional basis for his claims. The Court has carefully reviewed the Report and Recommendation and Plaintiff's objections. After that review, the Court finds no reason to depart from the Magistrate Judge's recommendations, which are both factually and legally correct. Based upon the Court's *de novo* review of the record, the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

**ORDER**

1. Plaintiff's objections (Doc. Nos [7], [9]) to the Report and Recommendation of United States Magistrate Judge Katherine Menendez dated June 8, 2020 are **OVERRULED**.

2. Magistrate Judge Katherine Menendez's June 8, 2020 Report and Recommendation is **ADOPTED**.

3. The case is **DISMISSED WITHOUT PREJUDICE**.

4. The application to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED AS MOOT**.

5. Plaintiff's motion for injunctive relief (Doc. No. [5]) is **DENIED AS MOOT**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: August 12, 2020

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge